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Jarrod Manglona, Michael Langdon, and Anthony
7 Macaranas.

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10 IN THE UNITED STATES DISTRICT COURT
11 FOR THE NORTHERN MARIANA ISLANDS

12 AE JA ELLIOT PARK,
13

14 Plaintiff,

15 vs.

16 JARROD MANGLONA, MICHAEL
17 LANGDON, ANTHONY MACARANAS,
DEPARTMENT OF PUBLIC SAFETY
18 and JUAN DOES 1-4, NORBERT
DUENAS BABUTA,

19 Defendants.
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CIVIL ACTION NO. 07-0021

**DEFENDANTS' MOTION FOR AND
MEMORANDUM IN SUPPORT OF
ATTORNEYS' FEES**

Date: March 6, 2008
Time: 9:00 a.m.
Judge: Hon. Alex R. Munson

MOTION

Pursuant to 42 U.S.C. § 1988, defendants Jarrod Manglona (“Defendant Manglona”), Michael Langdon (“Defendant Langdon”), Anthony Macaranas (“Defendant Macaranas”)(collectively, the “DPS Defendants”), and the Department of Public Safety (“DPS”) request that this Court award attorneys’ fees and other related nontaxable fees.

ARGUMENT

I. Ms. Park’s Due Process Claims, Under Any Standard, Are Without Merit.

A district court may award attorneys' fees pursuant to 42 U.S.C. § 1988 to a prevailing civil rights defendant if the plaintiff's action was “unreasonable, frivolous, meritless, or vexatious.”¹ An action becomes frivolous when the result appears obvious or the arguments are wholly without merit.² Because of the “law of the case” doctrine, Ms. Park’s due process claim is frivolous.

“Under the ‘law of the case’ doctrine, a court is ordinarily precluded from reexamining an issue previously decided by the same court, or a higher court, in the same case.”³ For the law of the case doctrine to apply, “the issue in question must have been ‘decided explicitly or by necessary implication in [the] previous disposition.’”⁴ When Ms. Park filed her due process claim substantially unchanged from the ones dismissed by this Court the outcome, as it relates to Ms. Park’s due process claims, became certain. DPS Defendants, however, were forced to respond to a claim that had already been decided. Moreover, Ms. Park’s claims of liberty and property interests in various criminal statutes or employment regulations suffer from the same defect as her

¹ *Vernon v. City of Los Angeles*, 27 F.3d 1385, 1402 (9th Cir.1994) (internal quotation marks omitted).

² *See Christiansburg Garment Co. v. EEOC*, 434 U.S. 412, 422, 98 S.Ct. 694, 54 L.Ed.2d 648 (1978); *see also Hughes v. Rowe*, 449 U.S. 5, 14-15, 101 S.Ct. 173, 66 L.Ed.2d 163 (1980) (per curiam).

³ *Richardson v. United States*, 841 F.2d 993, 996 (9th Cir. 1988) (citations omitted).

⁴ *United States v. Lummi Indian Tribe*, 235 F.3d 443, 452 (9th Cir. 2000).

1 claim to a property interest in the Victims' Bill of Rights: there are no precisely defined means of
2 enforcement.⁵ Because of this, DPS Defendants ask this Court to grant attorneys' fees to DPS
3 Defendants in the amount of \$2,000.⁶

4 CONCLUSION

5 On November 16, 2007, this Court entered an order dismissing Ms. Park's due process
6 claims. By any definition, Ms. Park's due process claims were and are frivolous. They were
7 frivolous when initially pled, frivolous in light of the holdings in *Town of Castle Rock*,⁷ frivolous
8 when Ms. Park was unable to cite a single case to support them, and frivolous when this court
9 dismissed her claims as "misconstruing the law." Finally, and most importantly, Ms. Park's
10 current Due Process claims are, once again, frivolous because they ignore the law of the case and
11 allege a theory previously dismissed by this Court. Instead of attempting a new theory for a due
12 process claim, filing a proper motion for reconsideration,⁸ or filing an appeal, Ms. Park has
13 brought a lawsuit redundantly claiming she has a right in the CNMI Victims Bill of Rights.
14 Worse, she, inexplicably, claims a due process right in several police regulations even though she
15 has no personal interest in the regulations. For these reasons, DPS Defendants ask the Court to
16 award attorneys' fees.

25 ⁵ Order Granting Defendants' Motion to Dismiss; Civil Action No. 07-00021

26 ⁶ See Declaration of Braddock J. Huesman attached hereto.

27 ⁷ See *Town of Castle Rock v. Gonzales*, 545 U.S. 748 (2005).

28 ⁸ DPS Defendants note that Ms. Park's improperly filed Motion for Reconsideration and/or Clarification did not question this Court's ruling regarding due process. Instead, the Motion for Reconsideration only questioned the Court's equal protection ruling.

Respectfully submitted
Thursday, January 31, 2008
OFFICE OF THE ATTORNEY GENERAL

/S/
Braddock Huesman, T#00047

CERTIFICATE OF SERVICE

I certify that a copy of Defendants' Reply to Plaintiff's Opposition to Defendants' Motion to Dismiss was served on George Hasselback, who is the attorney in charge for plaintiff, Ms. Park, and whose address is PO Box 501969, Saipan, MP 96950, (670) 234-5684, by electronic filing on Thursday, January 31, 2008.

/s/
Braddock J. Huesman